

all of this, but just to say this: I did not come to the floor to criticize anybody and I will not respond as I am tempted to do. I came here asking only one thing: That when the Senate Committee marks up its bill at 2 o'clock, that we mark up a supplemental disaster appropriations bill without attaching amendments that are unrelated to the bill.

One Member came and took great offense to that and ranted about the fact that I or others do not support efforts to stop Government shutdowns, and so on. I have no idea how people learn these techniques—the technique of misstating your opponent's position and going on and debating them. That is an old debating technique that some memorize. It does not serve a particular interest to me.

I am very happy to work with all Members of the Senate in finding ways to avoid any Government shutdown, at any time. I have never supported a Government shutdown. I am happy to work with anybody at any time to avoid a Government shutdown. I do not want someone coming to the floor to ascribe motives I do not have. My motive was for one purpose today, and that is to encourage all Members of the Senate to understand this disaster supplemental has the word "disaster" attached to it because some parts of the country are suffering a disaster. We want, at the end of the day, to pass a bill that extends a helping hand to those folks.

Now, I understand everybody else has 800 objections to it, and they have different agendas. We have in our caucus, people who have agendas, they want to bring things to attach to this bill. They are saying, "This is the first appropriations bill. We want to attach something to it." My position to them was exactly the same. It does not matter what party you are in. I have told members of our caucus, "I do not want you to attach things to this bill." I will tell them that today if somebody says they want to do it.

Leave this bill alone. This bill affects 22 States. It affects people who have been driven from their homes who need help. We do not need people to come to the floor pointing and shouting about who supports Government shutdowns in September or October. Who is willing to help pass a disaster bill in April and May? That is the question.

I get sorely tempted some days to come and respond in kind to some of the things I hear. But my Scandinavian heritage overcomes that urge from time to time, and it will again today. My response would be in a more personal way to those with whom I take offense when they suggest somehow that those of us who want to see a disaster bill passed without interference have an agenda that does not care about the rest of the country and Government shutdowns. People know better than that. We should have reasonable and thoughtful debates here in the Senate. We should not do that sort of thing.

The agenda of the Senate, it seems to me, in the Appropriations Committee this afternoon, is how does this country respond to a series of disasters. That is what I care about. There are other issues that others care about. That is fine. We should talk about the issues. But I would feel the same way, I guess, if it was your disaster. I would want your people to get the help they deserve. And I have done that on earthquakes, fires, floods, and tornadoes all around the country in all the years I have been here.

My hope is, without ascribing ill motives to anyone in the Senate, that we can just decide to work together. I have said three times, and let me say again, Senator STEVENS is a wonderful chairman of that committee and he has been enormously helpful, I think doing a terrific job, as are other members of that Appropriations Committee, Senator BYRD and others, in difficult circumstances, putting together a disaster relief bill that extends a helping hand to people who desperately need help in this time.

Mr. President, my hope is that when we convene at 2 o'clock, we will proceed through this bill and probably be able to talk some people out of offering amendments that might load this bill down and not allow it to get passed on an expeditious basis. My hope is perhaps at the end of next week all of us, Republicans and Democrats alike who care about this, can join the President in a bill-signing ceremony that says we did what we were supposed to do. We did what was necessary. This Government extended a helping hand to people who were down and out, flat on their back, who needed help, and that there were not intramural political games being played here, there and everywhere that would delay and do the things that people so often and too often now expect of the Congress.

I understand sometimes why the American people look at this process and become profoundly disappointed—profoundly disappointed—because almost everything that happens is someone thumping their chest saying, "I am the one that will save the Republic." The fact is, what saves the Republic is the good will of men and women working together on common problems in this country in a sensible, thoughtful way. I hope that we will begin doing that and continue to do that not just on this bill but on bills that affect all of America and all of Americans. That is my hope.

I yield the floor.

VOLUNTEER PROTECTION ACT OF 1977—MOTION TO PROCEED

The Senate continued with consideration of the bill.

The PRESIDING OFFICER. The pending question is the motion to proceed to S. 543.

The Senator from Idaho.

Mr. CRAIG. I came to the floor to speak to that piece of legislation, but

also to speak to the supplemental and the current situation the Senate finds itself in at this moment.

Senator DORGAN has spoken passionately, as he should, about a concern for the citizens of his State and that their needs are responded to because of the devastating floods that are ongoing in his State. For that, this Senate will respond.

I now have the privilege of serving on the Appropriations Committee, and I must tell you that it is my intent to support a supplemental appropriation that has disaster relief in it—for the citizens of North Dakota, yes, but also for the citizens of Midvale, ID, my hometown.

In early January of this year, the national television cameras did not sweep across the 4 feet of water that surged through my hometown, that displaced 40 residents, destroyed homes, took the one small general store and put it out of business. I flew over it a few days later in a helicopter to see utter devastation like I had never seen before and like my friends and neighbors had never witnessed. I remembered looking at the files of the local newspaper and the flood of 1950 when I was a small child in that community. This, of course, was even worse. This was, without doubt, the 100-year flood.

Now, what I found out at that time—and I have great praise for FEMA and the Army Corps of Engineers and others—is that they did respond and they responded immediately. The citizens of Midvale were cared for within the limitations of the law and prescriptive to their needs. I am pleased about that and played a small role in helping them.

What I also find out is that the citizens of North Dakota are being cared for at this moment. There is adequate money at this moment to deal with the immediate needs. They are being cared for. Will there be necessary moneys for the future needs of rebuilding and repair? No. That is what the supplemental is all about. There is adequate time for a responsible and reasoned debate on what we do about the expenditures of our Government.

I am going to support a continuing resolution tied to the supplemental appropriation. Why? Because I do not like the budget process gamed. I do not like a President, who owns a bully pulpit, to veto and then stand on that pulpit, when it was his pen that brought the Government to a halt, turning and saying, "Look at those folks up on the Hill. They did not give me what I wanted, so I am shutting the Government down." He says, "They did not give me what I wanted, so they are shutting the Government down," and he got away with it. The American people said, "Oh my goodness, isn't that terrible. Congress should not have done that."

Congress did not intend to do that. Congress will not do that again. That is why we have considered amongst

ourselves the importance of putting together a supplemental with a continuing resolution that has a level of expenditure of 98 percent of the 1997 fiscal year level. That is right and it is responsible.

Now, I am on the Appropriations Committee. Yes, I am a freshman. I understand that. Does it take away my power and my leverage on the committee? I really do not think so. All appropriators want to produce and pass the 13 appropriations bills that will constitute the new budget for fiscal year 1998. Why? Because it is good policy. The President has some new programs, and he will get them. We have some new programs that we want and some spending reduction levels that we want and a tax package that we want that we think are important for the American people, and we will get there and the budget will be balanced.

But what the CR gives us is the room to operate and to say to our Government employees, you will not be put at risk and we will not allow you to be gamed. I have a sense there is a little gaming going on now about the need and the urgency.

Let me make myself clear. It is my understanding, based on an immediate review of the budgets of FEMA and the Army Corps of Engineers and other areas, that they have money to deal with the immediate situation, and it has been dealt with. Every citizen in this country that turned on the national news saw Federal employees and Federal people on the ground in North Dakota helping, and they are there today and will be there tomorrow. What is important is that we deal with this issue and deal with it in a responsible and timely way. Will there be add-ons to the supplemental? Yes, there will be.

Mr. COVERDELL. Will the Senator yield?

Mr. CRAIG. I am happy to yield.

Mr. COVERDELL. I am not on the Appropriations Committee. Let me say this just for clarification here. The supplemental is a vehicle by which we can help the flood; it is not a disaster supplemental.

Mr. CRAIG. That is correct.

Mr. COVERDELL. In other words, this has been in the process since before the emergency, so it is going to probably deal with Bosnia. I am just guessing, as I am not on the committee. Do you not have something dealing with our troops overseas in this matter?

Mr. CRAIG. The President, as the Commander in Chief, has the latitude within the law to spend beyond the limits of the budget when we have troops in foreign lands. The Food and Foraging Act allows for the President to do that. That case has occurred in Bosnia. What the supplemental offers is some reprogramming of dollars within the defense budget to pay for expenditures that have already been let in the area of Defense. So it is not just flood money. It is clearly reprogram-

ming money for the Department of Defense and for our troops stationed in Bosnia.

Mr. COVERDELL. My point is this. When we have a disaster, we typically use whatever vehicle is moving to deal with it. For example, in the great 500-year flood that we experienced several years ago in Georgia as a result of Alberto—and I believe we all understand the sense of urgency that comes from any Member of the body who represents that kind of a condition—for the long-term relief, I, along with my colleague at the time, Senator Nunn, were addressing it on a series of appropriations bills. So this disaster is being addressed on this appropriation vehicle, but it is not a bill for the disaster. It is the process in which we are engaged that we are using to help the disaster.

Now, this is my last question, and then I will let the Senator proceed with his remarks. The Senator very astutely made the point that the emergency brings out our emergency resources. In our case, FEMA was there immediately. A coordinated center was set up for relief, water was flown in, and the National Guard was dispatched throughout the southwestern quadrant of the State. What we were dealing with in appropriations was the long-term build-back, which takes a long time.

I just find it ironic, the one thing that you have to have to protect the long-term build-back is that the system does not shut down. So, for me, the idea of putting a disaster protection in the supplemental that assures that the long-term relief will not come to a stop suddenly because of politics is a pretty good idea. Would the Senator agree with that?

Mr. CRAIG. Well, I agree with that, of course. As you know, our budgets operate on a fiscal year basis. My guess is that, come October 1, 1997, when the 1998 budget begins, there will be Federal agencies on the ground in North Dakota negotiating contracts with private contractors to rebuild or restore facilities in those devastated areas. They will be, at that moment, negotiating. If the Government shuts down for any given time, all negotiations have to stop, all transactions have to stop. That is reality. The Government isn't functioning.

As we found out in the last shutdown, it is a very clear shutdown—cease and desist, turn out the lights, go home—except for only essential employees who, by definition of their employment, might stay on location for the security of the buildings and operations of the facilities. That is reality.

So I think the point the Senator from Georgia makes is a very clear and important point. Now, with these disasters ongoing and impending, the reality of continuation is very, very important. I have money in this supplemental for Idaho. It could be called disaster money. It goes to my hometown of Midvale and Washington County and

Payette County and Jerome County. I have 13 counties in Idaho that have been declared disasters. We have flooding going on in my State as we speak.

Senator DORGAN mentioned he didn't want any add-ons. Let me tell you of an amendment I am going to try to put on. It deals directly with disaster, and it is an add-on. When a disaster strikes and there is an immediate event and an emergency situation and there needs to be build-back of dikes to protect private property and private life, we have a problem. The problem is that the Endangered Species Act can step in, and external agencies like the U.S. Fish and Wildlife Services and National Marine Fisheries can oftentimes come in like they have in California during the incidents in January of this year. There was a special area designated by the Assistant Secretary to allow the waivers to take place because it had to be an Executive waiver. In St. Marys in north Idaho, a flood event that occurred in 1996 was in the midst of being repaired. At that time, there were over 400 homes in that community under water. As I flew over in a helicopter, just the rooftops were sticking out. The dikes had blown. Now they are repairing them. The U.S. Fish and Wildlife Service stepped in and said, "We don't think you are following the Endangered Species Act. Stop." That order went out about a month and a half ago. There is no more dike building going on in St. Marys in Benewah County in north Idaho. The water is rising as we speak and the dike is not complete. This is all about habitat for osprey eagles and has nothing to do with human life and property.

My little amendment says that during the time of a declared emergency—in this instance, I am simply saying 1996 and 1997—the Endangered Species Act doesn't pertain during the time of emergency and emergency repairs to follow. I am sure that that will be the case along the Red River in North Dakota and other areas that we will have to deal with. That is an add-on, and I am sure the Senator from North Dakota would want that. There can be others that can be argued to be direct and specific as it relates to the supplemental.

Mr. President, I came to the floor to suggest that this Senate deserves to debate and to vote upon S. 543. I find it amazing that, in this system of Government by laws that we all support and believe in, we have found ourselves so encumbered by laws that we can no longer volunteer, or you can't give freely of your time without liability or without risk of liability, or to work in a voluntary organization, and that organization has to take out insurance to protect themselves so that they are exempt from lawsuit. We used to deal with that as a free and open society. We had a doctrine of charitable immunity. In other words, we said, if you are giving to charity and you are giving in a voluntary and charitable way, you are immune from litigation. Well, that

no longer exists. Most States abrogated charitable immunity by imposing full liability for damages without adequate consideration of whether unique characteristics of charitable organizations and volunteers warranted some other arrangement.

I find it amazing that we are being blocked by the party of the President, who has just done a very admirable thing in Philadelphia about voluntarism, to launch a national voluntarism program across this country, which I suspect 100 percent of the Senate believes in, along with the huge majority of the American people. We are now at a standstill on legislation to protect those who would come out in response to our President and to General Powell and to past Presidents and to a nation which really does believe that the way to save our cities of America is not just a Federal program, but to incorporate the cause and caring of citizens of our country that give of their time in a voluntary way.

I hope that we can pass this legislation. It is literally being filibustered at this moment. Are there extenuating circumstances? Yes, there are. We all know that. It is too bad we can't move on with this legislation and deal with it. But I will tell the Senator this. I mentioned it to him several times on the floor in, I think, appropriate and just ways. We will convene the Appropriations Committee this afternoon, we will mark up a supplemental, and it will have some emergency dollars in it and some defense reprogramming. It will have a CR in it, I believe, and it will probably have other issues in it that Senators, bipartisan Senators, Democrats and Republicans, will find necessary to put in the supplemental.

I yield to the Senator.

Mr. DORGAN. Mr. President, let me say that the amendment you described a few moments ago—I understand that there is some controversy about it, but it is perfectly appropriate. Your amendment deals with the disaster. I read it last evening at home, and I certainly would not intend to be critical of somebody who is offering amendments that deal with the bill. I want you to understand that. My concern is amendments that really don't have any relationship to this bill but which people want to get passed. I heard you describe it and use my name. I have no problem with that amendment being offered because it relates to this bill.

Mr. CRAIG. I thank the Senator for saying so. I said it in the context that it is an add-on. You are right. I think it is appropriate and I think it will have bipartisan support. We are all for the Endangered Species Act, and we want to make sure our Government agencies function and operate in a way that their activities do not damage or threaten endangered species. But in a time of a flood incident or emergency, to invoke a bureaucracy and withhold the ability to immediately get out there and solve that problem and protect private property and human life is

really beyond me. Yet, we find ourselves in that circumstance. My amendment will deal with that.

With those comments, I hope we can move in a timely fashion to deal with S. 543. I hope that, with the work of the Appropriations Committee this afternoon, we can have a supplemental come to the floor that deals with disaster relief, that deals with reprogramming of defense dollars. It is going to deal with a lot of other issues. It is not the disaster bill. It should not be said that it is. It is an appropriation bill dealing with supplemental needs, most of them requested by the President and sent to the Congress. We are responding to the administration, in most instances, by dealing with those things that the President feels are necessary and that the majority of the Congress would agree with.

I yield the floor.

Mr. COVERDELL. Mr. President, about an hour ago, to facilitate remarks on the subject we have been hearing about for the last hour, I stepped aside from the explanation of what is really before the Senate, which is S. 543. I see the Senator from Illinois here. I do have some rather extended comments to make about S. 543. So I might ask what would be required by the Senator who has come to the Senate floor? I have been trying to accord the various interests here.

Mr. DURBIN. I thank the Senator. I wanted to address my remarks to the issue concerning the disaster assistance and the continuing resolution.

Mr. COVERDELL. How much time would the Senator need?

Mr. DURBIN. Since I am new to this Chamber, it will be brief.

Mr. COVERDELL. I will yield the floor so that you might make your remarks.

The PRESIDING OFFICER. The pending business is S. 543.

Mr. DURBIN. Mr. President, it may be of interest to note why we are here and what we are talking about. Nominally, we are here to consider Senate bill 543, an important piece of legislation and one which I cosponsored in a slightly different form as a Member of the House of Representatives. I commend the Senator for offering this. I think it is an important piece of legislation. I hope that we can have real debate on it and consider some amendments and enact legislation to certainly achieve the goals. They are worthy goals. People who volunteer to help organizations should not risk or fear liability for their acts, unless, of course, they are guilty of something which is wanton or criminal in nature. I think the Senator offers a good piece of legislation. I would like to see some changes, and I hope we reach that point.

The reason why we are not considering it, the reason why the Democrats have voted on two successive days to continue this debate has nothing to do with the bill directly. It relates to the appointment of a person to serve as

Secretary of Labor. We feel this has been delayed for the wrong reasons. We hope the Republican majority will move on Ms. Herman's nomination very quickly. Unfortunately, your bill has become a captive in this negotiation.

The other measure that came up here today is one I would like to address for a moment, one that I feel an affinity to, the question of disaster assistance. In 1993, in my congressional district, in downstate Illinois, we were literally inundated by the Illinois and Mississippi Rivers, and it was awful. I feel very badly for families that are victimized by disasters. But I will tell you. Some disasters come and go very, very quickly. In the dead of night a tornado rips through a town, and by the next morning people are picking up the pieces, clearing the rubble, and planning for rebuilding. A fire rips through an area and people the next day are talking about demolition and reconstruction. But a flood lingers and lingers. Mr. President, 125,000 Americans are now homeless in North Dakota and Minnesota because of this flood. The pictures that I have seen make my experience in downstate Illinois almost pale in comparison. That is something I thought I would never see because the flood that we experienced was devastating.

It is really sad, though, as we consider the response of this Nation through our Government to this disaster, that we have seen other issues extraneous to the issue at hand really take center stage. I hope that the Appropriations Committee will think about the families that have been hurt, businesses destroyed, and the farms inundated when they markup this afternoon. Give us a clean disaster bill that will help these families. There are important issues to debate. But save those for another day. Let's really come to the rescue of the families of this Nation. Let's show compassion for these families.

I daresay there isn't a Senator in this body who could go up to North Dakota to one of shelters where these homeless people are now waiting and say, "You have to understand. We can't help you out until we have a momentous debate on another issue." That would be a hard sell. I wouldn't want to have to do it. I hope that Members who have been spared in their own States and districts from this kind of disaster will try to commiserate with those of us who have been through it. It is time to think about those families, and this issue that is tying us up as to whether or not we will endure another Government shutdown. I pray that we will not. The decision about 2 years ago by the Republican majority to send a bill that they knew would be vetoed leading to the shutdown of the Government is a sad experience. I think all involved in that understand that today, and they want to avoid that in the future. That is a goal that I share.

I don't agree with the approach that is being used because the continuing

resolution bill is a complete abdication of responsibility by the Members of the Senate. It was only a few weeks ago that Members came to this floor, and in very convincing and pious tones talked about amending the Constitution of the United States to require the Senate and the House to meet their obligation and their responsibility to balance the budget. We were about to amend the Constitution of the United States because we take that issue so seriously. It failed by one vote.

Despite all of the fervor and all of the commitment, where are we today? The Republican majority in the House and Senate has failed to meet its statutory obligation to produce a budget resolution which is a blueprint on how you will reach a balanced budget. That was supposed to have been done by April 15. Yet here we are weeks later without a budget resolution. Negotiations continue.

So now the proposal is that we will amend or add to the disaster bill this blueprint for balancing the budget. Excuse me. The people in North Dakota whose homes have been flooded, whose kids who are out of school sitting in homeless shelters, people who are drinking water out of cans because you can't use the water system—they are gone—folks that do not know what has happened to articles in their lives that have meant so much to them—it is a little hard to explain to them that we have a more important thing to worry about than the roof over their heads or the food that they are going to eat. We have, instead, to worry about this continuous debate about balancing the budget.

If the goal is to avoid shutting down the Government, I am about to offer a solution. It is one that I guarantee you will make certain that the Federal Government never shuts down again. It has two parts to it. The first part is this: No budget, no pay. If Members of House of Representatives fail to enact a budget, if Members of the Senate fail to enact a budget, they don't get paid. That will focus the attention of this Chamber and the House on getting its business done in a hurry.

There is a second part. I call this "no dessert until you clean your plate." Have you ever heard of that one? You did while you were growing up. Mom and dad used to tell you that one all the time.

It is very simple. It merely says that the last appropriations bill to be enacted, the last spending bill to be enacted, would be the spending bill that covers this Chamber and the House of Representatives. So, if we fail to appropriate the money for the Department of Justice, or the Department of State, we know that the House and the Senate will not continue in business. "No dessert until you clean your plate." Pass the spending bills for all the agencies of Government, and make ours the last one. And until all the others are enacted we cannot enact our own.

I will guarantee you all of the volumes of debate that we will hear about

balancing the budget may lead to a good conclusion and a good ending—that we will finally see Members who have their paychecks on line, and who will realize that the operations of the House and Senate are on the line, decide, "Yes, we had better pass the appropriations bill. Yes, we had better enact a balanced budget instead of a constitutional amendment, and get down to the business of passing bills."

It is sad that this Appropriations Committee in the Senate will come back this afternoon and amend this disaster bill, and embroil these poor people—125,000 homeless people who have lost their homes because of this flood—in the middle of this political debate. They really deserve better. America deserves better.

We are a caring people. And the people in this Chamber—men and women alike, Democrats and Republicans—are caring people as well. Let us not sacrifice what is good about America, and what we are so proud of in the name of a political debate. Let us get down to the business of helping the flood victims, and then let us get down to the business of balancing the budget.

I thank my colleague for yielding this time. I am sure we will return to this bill in earnest very soon, and his patience will be rewarded.

I yield back my time.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, I appreciate the brevity of my colleague from Illinois. I will make a couple of comments about his remarks, and then return to S. 543.

First, as he properly stated regarding S. 543, I was pleased to hear that he felt good about the legislation, that it has gotten caught up in the debate about the supplemental budget and about the nomination of Alexis Herman. But I would point out to the Senator from Illinois that we have been on S. 543 since Monday and have been blocked from action on it. And the supplemental legislation—which deals with Bosnia, which deals with the disaster, which deals with the multitude of issues—is not out of committee. And there is no reason whatsoever for it to be used as some political obstacle to block legislation that would help American volunteers respond to the President's request to step forward.

I point out that S. 543 has been on the floor since Monday afternoon, and that we have been blocked from going to the legislation by a filibuster. And they have evoked the fact something about the supplemental and whether we are in a debate over a continuing resolution or not. It is not even out of committee. So, obviously, it cannot be used as any leverage against S. 543.

With regard to the President's nomination of Alexis Herman to be Secretary of Labor, and the fact that that matter has not been brought to the floor, I don't believe that issue—which I will talk about in a second—should be used to deal with this very targeted,

narrow legislation in response to the summit in Philadelphia.

What you have there is an individual who went through the committee process, and purportedly handled her business there very well, but as the future spokesperson for the administration on labor failed to mention that the administration was contemplating a massive change in labor law; and that they were contemplating doing it not by bringing legislation to the House and the Senate but by making the change occur by decree—an Executive order issued by the President—that would exclude about 80 percent of the American work force from eligibility on a labor contract. That didn't come up in the hearing. That is not an insignificant policy. It is even in the minds of many a constitutional confrontation.

We don't govern by decree in America—nor edict. The President cannot write the law. He can veto it, but he cannot write it. That is a huge issue. And the majority said, "Wait a minute. We want to talk more about that." And we are going to. It is likely to be extensive. That is what that nomination is entrapped about—the idea that the President would rewrite law that has been in place for 60 years, and bypass the Congress.

That disagreement, purportedly, according to the other side, is the reason that we should take no further action on S. 543, a 12-page bill, double-spaced bill, whose simple goal is to protect American volunteers from being undue legal targets.

Prior to 1980, this was not a problem in our country. You can count on two fingers the number of lawsuits that have been targeted at volunteers. But in the 1980's there were several celebrated cases. And, all a sudden, there was a rush. "Well, here is a new resource that we can sue." Often the volunteer organization has very limited resources. But maybe one of the volunteers owns a home, or maybe it is worth a quarter of a million dollars. "We will go after that." This legislation says no. You can't do that. It has to be proportionate.

There was a case discussed yesterday where a volunteer was sitting at the reception desk at a gym. A child in the gym dropped a weight and broke his or her leg. The volunteer agency that organized this recreation didn't have anything. But guess what? The volunteer answering the phone did. Who did they sue? Right—the volunteer answering the phone who had nothing to do with anything other than being a good-spirited American. When that news gets around town, how many people are going to go answer the phone? Not many.

That is what we are trying to protect here in this legislation—that the volunteer could only be held liable for that which she was responsible, which was zero. A 12-page bill, double-spaced with a very narrow focus to that, tries to help fulfill the call of Presidents Clinton, Bush, Carter, and Ford: America, step up, renew our volunteer spirit,

renew what is so unique about it, and reinvigorate your desire to come forward.

If they do not protect those families and their assets, their homes, their checking accounts, that is asking more than they are going to get. Volunteers are willing to step forward, but it is another thing to say step forward and place everything you have in place to manage your family, you put that in a legal lottery, which is why there have been 48,000 resignations in the last several years, which is why voluntarism has dropped from 54 percent to 48 percent and going down, which is why charitable organizations do not have as much in resources to spend on their work because they are spending it on insurance, and which is why there is this chilling cloud. As more and more Americans realize they are not just volunteering to help someone in need, they are placing all their own property at risk, as everyone learns that, their first priority is to protect their own family.

S. 543 comes to this problem in a very balanced and appropriate manner. Now, I have discovered that even though this is only 12 pages long, double spaced—and I know we always talk about how much of the actual legislation is read. It is pretty obvious this has not been read by a number of the Members because of the comments they have made. Yesterday we heard that it would protect the Ku Klux Klan, of all things. I suggested that it be read. I will read the provision that deals with that. It is the definition of a nonprofit organization, what is one. It is this. It is "any organization described in section 501(c)(3)"—that has to be an educational effort—"of the Internal Revenue Code of 1986 and is exempt from tax under section 501(a)."

That means the Internal Revenue Service has to certify that it is an appropriate organization. I have been through that myself. It takes a long time. They ask a lot of questions. It would be "any not-for-profit organization organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes," period.

That is the kind of organization this legislation provides some protection for. Why do I say some? Because it does not protect the organization or the volunteer for willful misconduct.

In other words, let us say the volunteer was driving, carrying children and was inebriated—drunk. No protection. Let us say the volunteer was involved in a hate crime or a sexual offense or a civil rights matter. No protection. This is designed to deal with the volunteer at the Little League who is just carrying out his or her job as a volunteer and somebody trips or slips or falls. We all know what that means. It would give them some protection from liability.

So this legislation, as narrow as it is, would cut a wide swath and open the

door for a large number of Americans to do what they naturally want to do anyway; it is a part of who we are, and that is to step forward and volunteer and answer the call of four Presidents and General Powell. It is being filibustered and has been since Monday at about 2 o'clock—with the exception of the managing Member on the other side, virtually none of the other side's debate has had anything to do with this at all but extraneous matters—for which we have now had two cloture votes, and the majority leader has said we are going to have two more because we are going to do something about voluntarism in America.

It does not have anything to do with the supplemental, and it does not have anything to do with our argument over labor law. Those are both very, very powerful issues and ought to be dealt with in the appropriate venue. It is a little bit like taking a sledgehammer to deal with an ant. This is a good Samaritan act, and the fact that we are now sitting here at 1:20 on Wednesday for these 12 pages, double spaced, is a rather remarkable comment on goodwill—or the lack of it.

Now, Mr. President, I would like to cover questions that have been raised, not so much by the other side but by others, about what we need to do on voluntarism. Some people have suggested that we do not need to do much, if anything, that voluntarism is healthier than ever.

That is simply not true. I am going to repeat this. According to the Independent Sector report, the percentage of Americans volunteering dropped from 54 percent in 1989 to 51 percent in 1991, and then 48 percent in 1993—a clear pattern. Fear of litigation alone does not explain the decline, but it is one factor we can address.

I was glad to see the Presidents and General Powell calling on America to reinvigorate itself. I was once the Director of the U.S. Peace Corps, and I feel I have some personal knowledge. I had a chance to be right up close to the American spirit. It is unique and it is a treasured value, a treasured piece of the American spirit. Anything that interrupts it or gets in the way, anything that chills it, discourages it, we ought to be attentive to. Historically and contemporarily, voluntarism as it occurs in the United States is fairly unique around the world even. It has been written about, and it is true. It began with our very beginning. As Americans moved all across the country to the West, over and over again was that coming together and that volunteer spirit to help one another build this great Nation. It would be like being concerned about protecting our national monuments, protecting our national treasures, our parks.

Voluntarism is an American national treasure of immense proportions. I used to try, with my mental calculator, to figure out the value that the Peace Corps volunteers had contributed to the world and to the United

States, and it is in the billions—billions. I assume there are people who have tried to do that here domestically, but it would be very difficult to calculate because there is so much of it we do not even know about—the person who walks across the street to take a warm meal to an invalid, or that special hand that is held out to a child lost in a train station. If you stop and think about it and become a little more observant, you will not be able to get through a single day in America when you will not see some manifestation of this treasure, and it requires and deserves our attention. I frankly think it deserves a lot more attention than it has received in the last 72 hours here.

The Gallop organization studied voluntarism and found, in a study titled "Liability Crisis and the Use of Volunteers of Nonprofit Associations," that 1 in 10 nonprofit organizations has experienced the resignation of a volunteer from a board or some function in the organization. They have stepped aside. That is even worse. That just shows you the degree of fear we have here. It is not that they did not step forward or there was something in their mind that said, "I do not know whether I should do it because I could get sued." This is a person who already agreed to do it and became so intimidated that they quit. They resigned from the board. They left. I would venture to say there is not a Member of this body who has not experienced and thought about this very thing, if they would all think back. Because they are in public life, they are more visible, and so they have thought, do I really want to do this? Does this put me at more risk, or my family? I bet every Member of this Congress of the United States has had their thinking modified because of fear of a legal challenge.

One in seven nonprofit agencies has eliminated one or more of their valuable programs because of exposure to lawsuits. So here we have the organization that is eliminating its services—we are not going to do that anymore; we are not going to teach people how to swim. That is a dangerous environment. We are not going to do the same kind of camping programs because you are in the outdoors and it is harder to control. Or the story we heard from my colleague from Wyoming where the Boy Scouts cannot have a volunteer with a child now. They have to have two. They cannot have one adult and a child alone for fear there will be an allegation and a lawsuit.

This is a very worrisome development—fairly new, mid-1980's, last 10 years, this chilling cloud that is growing and growing.

Look at these statistics. One in five volunteers are more concerned about serving in volunteer organizations due to the increased liability threat. One in five. That is 20 percent, and it is going to grow unless we do something like S. 543. And 18 percent of those surveyed had withheld their leadership services due to fear of liability.

That is the point I was making about the Members of Congress. It would be interesting if we could document it, if everybody would think back and say, well, was there a board I left? I can think of one. Was there a board on which I refused to serve? I guarantee you that the vast majority, if not all, have changed or made a different decision about assistance because of the fear of liability.

And 49 percent reported seeing fewer people willing to serve on nonprofit organizations. That is like the story I told about Washington Redskin Terry Orr when he took over trying to recruit team members to help in the inner city here in Washington. They had to fight to get him, because he was concerned about liability.

Mr. President, "72 percent reported volunteers becoming cautious in what they say or do, relating to their volunteer work." That is a point that has not been talked about much here. But, clearly, people make different decisions when they are fearful of liability and they begin, even if they are a volunteer, not being as effective a volunteer. The kind of duty they will accept, the kind of thing they might or might not do, begins to be less effective. One of the reasons I have always argued against programs that say they are volunteer, but for which there is a large sum of money paid, which is actually a payment relationship, is that the unique chemistry that creates the American volunteer is altered; the free spirit of it, the nature of it is not the same if the volunteer is forced to be there.

Some have suggested that we ought to mandate voluntary service. The minute you mandate it you cannot use the word "volunteer" anymore. That is drafted, and that person interacts with the children or elderly people they are serving in a completely different way than when it is self-sought.

I was with a man the other day in middle Georgia. He volunteers a great deal of his time teaching youngsters how to fly and be involved in the Civil Air Patrol. He has spent several thousands of his own dollars to help these young men and women. He was driving me to my destination and, as we approached, he said: But it's all worth it when I see their faces, when I see the excitement in their faces. That is voluntarism and that is a special chemistry. The point I am making here is, when you introduce this fear, this chilling fear about what you can and cannot do and how liable you are, you change the entire chemistry of this volunteer that I have called an American treasure.

Another thing I have heard from time to time is, "There is no evidence of a national crisis involving a flood of lawsuits." It is not the number of judgments we are worried about here. We do not know all of them because many of them are settled. Institutions do not like to talk about this. It only invites more. So you really cannot get a total

picture of what is happening in this arena. But you only have to have one of these celebrated cases to change the behavior of millions of Americans. So it is not a question of how much has happened. The fact is that it has happened and therefore the insurance companies have modified their premiums manyfold.

There is one example of a Little League whose premium for protection in this arena was \$75. It went to \$775. You multiply that all across the land. It is the fact that it is a phenomenon that is occurring more readily, volunteers are a target, premiums are up, and volunteers step back.

We have heard some on the floor say persons injured by volunteer negligence will not be protected. In other words, there is not a redress for the first person who was injured, the young fellow who broke his leg when he dropped the weight. Under this legislation, anyone injured by this simple negligence, that is conduct that is not reckless, wanton, intentional, or criminal, of a volunteer, can still seek recovery from the organization. In other words, the organization would still have a liability, but not the volunteer who is just there as a good Samaritan. It would be the organization. The volunteer who came there as a good Samaritan, who just happened to have resources more than maybe the organization, is not set aside as a target. Which is appropriate.

Of course, as I have said repeatedly on the floor, and I hope some on the other side would listen to this, that when the volunteer's conduct is reckless, wanton, intentional, or criminal, then nothing in this legislation changes the terms of recovering the damages. In other words, there is no shield, there is no protection for a volunteer who was engaged in reckless, wanton, intentional, or criminal activity.

A question has been raised, why should a volunteer who causes harm to a child through negligence be immune from suit?

It is not the intention of the bill to cause volunteers to act carelessly with children, or any that they are helping, or those that are entrusted to their care. The truth is that simple, honest mistakes and accidents happen in life. They just do. The organization still remains potentially liable for the actions of its volunteers, and will still encourage due care by its volunteers. In fact, the legislation specifically says that if it is the practice to certify licensure, train the volunteer, the volunteer organization, the charitable institution, is still responsible for carrying that activity out. Otherwise they do, indeed, increase their liability.

We believe, in fact, that the organization will often be in a better position to pay than the volunteers would be anyway. Volunteers themselves can be people of limited means or not, just as those who are served by charitable volunteers are often people of limited re-

sources. We have heard that no independent study suggests federally imposed tort immunity, legal immunity, will increase the number, frequency, or quality of volunteers. As I have said over and over here, every one of us has met someone like this. If it was ourselves, we looked at ourselves in the mirror. Who has not expressed fear of liability in volunteering?

This is not rocket science. It is pretty straightforward. We have a situation where the current system is chilling the impact of volunteers—reducing their ability to come forward, causing them to leave, causing them to alter the way in which they carry out their work.

I hesitate to bring this up again, but I guess I have to because the other side has alluded to it, particularly yesterday, where it was suggested that organizations such as the Ku Klux Klan might gain lawsuit immunity from S. 543. As I have read here, now, at least three times and probably, given the circumstance, will do so three more, the bill specifically excludes from its protection suits based on misconduct that includes violent crime, hate crimes, sex crimes, or civil rights violations. It also does not apply where the defendant was under the influence of drugs or alcohol. The bill only provides limited immunity for the simple negligence of volunteers in carrying out their volunteer duties for a nonprofit organization, organized for public benefit, and primarily carrying out charitable, civic, educational, religious, welfare, or health purposes. And, as I have said, it includes volunteers for 501(c)(3) organizations, which are educational organizations that must be certified and approved by the Internal Revenue Service.

Some have said, if this bill is passed it will not reduce the liability insurance rates of nonprofit organizations at all. In fact, insurance rates for nonprofit organizations could go up. The primary objective of the bill is to encourage more volunteers. Insurance ramifications are secondary. The primary purpose, I repeat, of this legislation, S. 543, is to encourage more Americans—in your State, Mr. President, and in mine, and in every State of the Union—to come forward and reinforce the meaning of voluntarism in our country. While we can look at nonprofits' insurance rates as a measure of the problem, reducing the insurance rates of nonprofit organizations is not the bill's main goal. I personally believe that you will see a reduction in the rates because it stands to reason that, if the liability is circumscribed, made smaller, that the rates will ultimately reflect that. And that those sums of money, instead of being used for insurance premiums, can be used to buy meals, give rides, teach, provide meals, and otherwise give aid and assistance to Americans in need.

We have heard this objection, and this has been mentioned on the floor: "We do not need a Federal law. We

should leave it to each State to decide how to protect volunteers." It was, I think, very well stated yesterday when Senator McCONNELL, from Kentucky, pointed out the national nature of voluntarism. Many of the Nation's most preeminent volunteer organizations are national in scope. We do not have to spend much time thinking about it—the American Red Cross, the United Way, Little League International—and the list goes on. These are national organizations and their activities interact with all the States and volunteers. Their activities cross State lines. We have a classic example. We have been talking about it today. There is no telling how many volunteers are in the Midwest and how many of them come from somewhere else in the country. Many of them do.

I experienced a flood of these proportions in our State several years ago and people came from everywhere and volunteered and pitched in. They made sandbags, they helped clean out the mess, the mud. And, as has been characterized, a flood takes a long time to get straight. In fact, I think I could sadly say that many of the communities that have been confronted with this flooding in the Midwest will never be the same. Their character will be altered forever. It takes a while to appreciate the scope of what massive flooding can do. The point here is that the volunteers move across State lines a lot, and the organizations that recruit them are national organizations.

The decline of voluntarism is of national concern, else why would we have three former Presidents and the President all gathered together with 30 Governors and 100 mayors? They were not in Philadelphia to encourage voluntarism just in Philadelphia. They recognize that this is a national problem, and as I mentioned a little earlier, it is also a national treasure. Voluntarism, and what it means to America, is a piece of our national mystique, just as our national parks and our national monuments, and it needs national attention.

Having said that, the legislation does acknowledge the State role. First, if the State takes greater safeguards in the national bill, the national bill does not preempt those safeguards that go beyond the scope of the national bill.

If everybody involved in the legal action is a citizen of the same State, the State, by legislative action, may opt out from under S. 543 and only State law would apply, where all the defendants and plaintiffs were of that State. But, as I said, if it is a case that involves volunteers or activities among States, the Federal law would prevail.

I have said the national groups can cross State lines, but even local groups operate across State lines. How often is the camping trip to the next State, the neighbor State, or to the beach or to the mountains, to a lake—somewhere else? A lot of volunteer activity occurs across multiple State lines.

A Boy Scout troop in Georgia may go to an outing in Tennessee or North

Carolina, Alabama, or Florida. This would be the case in every State. I remember when I was an Explorer Scout. A lot of the activities occurred somewhere else, outside the home State.

In emergency situations and disasters, which I have alluded to, such as hurricanes and floods in the upper Midwest States, volunteers come from many States, and under pretty difficult situations, too, which has not been talked about. Volunteers are often confronted with situations and circumstances that are abnormal, such as working in a disaster, where accidents are more prone. If you think back, most of the accidents that you have had in your own home were usually during inclement weather, you were doing something that was a little out of the norm. You were more prone to a mistake or accident. Volunteers are often embroiled in that very kind of situation where you are more likely to have a mistake made, which would be another argument for S. 543.

There is so much volunteer activity that is directed at a circumstance or phenomenon that is out of the norm—a fire, a calamity of some sort in the community, and people make more mistakes in that environment because they are in places with which they are not familiar and they are confronting circumstances they do not deal with on a daily basis, which is yet another argument, frankly, that has not been chronicled. But it just occurred to me as another reason why S. 543 would be so pertinent.

State laws are a hodgepodge of Good Samaritan laws and, in some cases, provide little protection at all. On that point, I want to read from the "ABA Section of Business Law," a recent article that deals with this subject pretty well. It talks about the fact that in the eighties, this began to become a major problem. Prior to that, it was not. Then it talks about the States all trying to deal with this. It goes on to say:

The blame falls largely on the patchwork nature of volunteer protection laws, which vary tremendously throughout the United States. To facilitate analysis and comparison, the Nonprofit Risk Management Center compiled them in a publication, *State Liability Laws for Charitable Organizations and Volunteers*. This article—

The one I am quoting—draws on that analysis.

Each of the laws grants volunteers partial immunity. The extent of that immunity, and the conditions required for it to apply, vary not only across the states, but even within some states depending on the type of volunteer and the nature of the organization the volunteer serves. The common feature of the statutes is that unless volunteers' conduct fails to satisfy whatever standard the law specifies, they cannot be held personally liable.

Which is, of course, the goal we are after in S. 543.

The variations result from differences in circumstances that impelled legislatures to act, effectiveness of the volunteer-protection proponents, and the sensitivity of legislatures to the prospect of injured parties being denied recovery.

The point here is that this article chronicles in a very thoughtful way that the current situation is unmanageable, when you have national organizations, volunteers crossing State borders, activity in the various States and none of the two States being the same. Therefore, this has accomplished very little in terms of the chilling impact on volunteers. They do not know what risks they face and, therefore, they are stepping back from volunteering.

Charities, especially small charities, do not have the resources to determine the difference in State laws affecting them. Amen. There is absolutely no way. Of course, as you know, Mr. President, with the outburst of lawmaking here and across the States, it is almost impossible for any citizen to understand the complexities of the law today. Just talk to them about the IRS, that one alone. But here the charities do not have the resources to understand what they are confronted with in all the different States, and if the charity does not, the volunteer certainly does not. The volunteer is really the hapless wanderer as that volunteer travels from this State to that State, and their liability threat is changing each time they go to a new location. There is absolutely no way for them to unravel it.

Therefore, concluding on this point, the national interest requires some uniformity. It does not prohibit the State from exceeding it, and it does not prohibit the State—in fact, it gives them an option to come out from under it, if all the parties of the case are from that State.

Some say this bill preempts State law, violating principles of federalism. This is the activity we have just been talking about. The bill respects federalism concerns by allowing States to opt out of its provisions for those cases in which all parties are citizens of the State. It leaves in place State laws that are not inconsistent with its provisions and allows States to pass stronger volunteer protections if they wish.

The bill also leaves in place existing State laws on vicarious liability requiring a financially secure source of recovery, requiring risk management procedures and other State requirements.

Mr. President, I am going to conclude my remarks in just a few minutes. It is my understanding that Senator D'AMATO is going to be in the Chamber at 2 o'clock for a matter that he will choose to discuss. I want to reiterate, S. 543 is a 12-page, double-spaced, clean-cut bill that helps Americans respond to the President's call to volunteer. It has nothing to do with the significant labor dispute on policy between the Congress trying to protect its rights of the third branch, and the President trying to change labor law by Executive order. It has nothing to do with that whatsoever. Nor does it

have anything to do with the controversy or debate over the supplemental on Bosnia, disaster, and other matters. That legislation is still in committee and not before the Senate. What is before the Senate is S. 543. Its sole purpose is to make it easier for an American to volunteer and protect the unique treasure that voluntarism represents for the United States.

We have, I believe, two cloture votes set for tomorrow. So given the circumstances, I suspect we will come back to this legislation. I suggest the absence of a quorum pending the arrival of the Senator from New York.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. COVERDELL. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each, with the exception of Senator D'AMATO for up to 60 minutes.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SWISS SUPPORT FOR REQUEST TO PUBLISH ACCOUNT NAMES

Mr. D'AMATO. Mr. President, yesterday I received a very important and a very encouraging letter from Ambassador Thomas Borer. Ambassador Borer is the special representative that the Swiss have appointed to handle the very perplexing and very troublesome question as it relates to the assets of Holocaust victims during and after World War II, particularly those as they related to the accounts that were opened in Swiss banks.

Let me read this letter. It is a short one, but a very important one. It is from the Embassy of Switzerland, addressed to Senator D'AMATO as chairman of the Banking Committee, Washington, DC:

DEAR MR. CHAIRMAN: I am referring to your letter of March 20, 1997 and my reply of March 27, 1997 regarding the question of publishing the names of dormant account holders from the Holocaust era.

Please find enclosed [a] copy of the letter of the Chairman of the Swiss Bankers Association to the Chairman of the Swiss Federal Banking Commission dated April 28, 1997. In this letter the SBA expresses its unequivocal support for this idea.

I am going to place this letter in the RECORD.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EMBASSY OF SWITZERLAND,

Washington, DC, April 28.

Hon. ALFONSE D'AMATO,
Chairman of the Senate Banking Committee,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am referring to your letter of March 20, 1997 and my reply of March 27, 1997 regarding the question of publishing the names of dormant account holders from the Holocaust era.

Please find enclosed copy of the letter of the Chairman of the Swiss Bankers Association to the Chairman of the Swiss Federal Banking Commission dated April 28, 1997. In this letter the SBA expresses its unequivocal support for this idea.

Sincerely yours,

THOMAS G. BORER,
Ambassador.

Mr. D'AMATO. Mr. President, let me tell you what this is about. I did write to Ambassador Borer. I spoke to him on March 20. And I indicated to the Ambassador that I thought that it was awfully important that the Swiss Bankers Association, that the Swiss Government do something to demonstrate tangibly an effort of good faith, that would be very important, that there are many accounts—we do not know exactly how many; but certainly they go into the hundreds, and they may go into more—that have been dormant since 1945, that it made little sense to wait years until the Swiss completed their investigation for the release of these names, that even if it took legislation—and I explained to him that it had been advised to me that there was a good possibility that it might not even take legislation—that the names of these accounts—those are dormant accounts that were opened prior to 1945 and that have been dormant since that point in time—that the need for secrecy certainly no longer existed, but that there was a need to connect the families and the heirs today who might have claim to those accounts, to their heirs, to their families.

It is not just a question of money. It is a question of doing what is right, because unfortunately for 50-plus years people have been denied, heirs have been denied. They have had to go through a tortuous process, that in many cases it is just impossible to ascertain what moneys may or may not have been left to them, and that by the publication of the names in some registry, in some total form—something that is being done in many countries, in many States in our country where there is a dormant account, the names of the people are actually published so that people who may have claims can come forth.

I wrote to him, and I will just quote you part.

I am writing to you to impress upon you the need for the passage of legislation which would allow for the publication of names of dormant accounts presently held in Swiss banks. I feel that this change would go a long way towards solving this enormously difficult and complicated problem and would equally be seen as a productive step which I am sure would be warmly received.

I am pleased to tell you that the Ambassador reported to me yesterday, yesterday morning, that the Swiss Bankers Association unequivocally supports the concept of public disclosure of the names of the account holders in this very special and limited situation of the dormant accounts now being investigated as it relates to the Holocaust and those dormant assets.

I believe, Mr. President, that this is important.

Mr. President, I ask unanimous consent that the letter from me to Ambassador Borer and a letter from the Swiss Bankers Association be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, March 20, 1997.

Ambassador THOMAS G. BORER,
Federal Department of Foreign Affairs, Bern,
Switzerland.

DEAR AMBASSADOR BORER: I am writing to you in connection with the on-going inquiry by the Senate Banking Committee into the fate of assets held by Swiss banks belonging to victims of the Holocaust. As you are aware, among the issues which the Committee has focused its attention on has been the status of dormant accounts which may still exist in Swiss banks. My concern is that the present status of Swiss law inhibits any effective way to ensure the return of these assets to their rightful owners.

Presently, both the Volcker Commission and the New York State Banking Department are conducting inquiries designed to locate and identify dormant accounts. This of course is in addition to the 1996 survey undertaken by the Swiss Bankers Association and any internal reviews being conducted by the banks themselves. The problem lies in the bank secrecy provisions of the Swiss Federal Banking Law which preclude any effective way to contact the rightful owners of any dormant accounts uncovered through these efforts. For example, if a dormant account belonging to a Holocaust victim is located and that account holder did not name a beneficiary when the account was opened, there is no mechanism in place by which the heirs of that Holocaust victim could receive that which is rightfully theirs. The only way he would be in a position to make a claim to those assets would be if he knew of the existence of the account and the name of the bank in which it is located. Obviously, if the rightful heirs possessed such information, the account would have been claimed long ago. In cases where the account holder did name a beneficiary, it appears that less than diligent steps were taken to locate these beneficiaries. This was made abundantly clear in the case of the 53 accounts turned over to the Polish Government pursuant to the Swiss-Polish Agreement of 1949. Notwithstanding the fact that the Swiss government classified these assets as heirless and turned them over to the Polish government, the recent publication of the names this year led